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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Falkland Islands (Malvinas)

Working paper prepared by the Secretariat*

Contents

		Paragraphs	Page
I.	General	1	3
II.	Constitutional and political developments	2–14	3
	A. Constitution and Government	2–3	3
	B. Political developments in 2003	4–14	3
III.	Mine clearance	15	7
IV.	Economic conditions	16–29	7
	A. General	16	7
	B. Public finance	17–18	7
	C. Agriculture, land tenure and livestock	19	7
	D. Fisheries	20–23	8
	E. Tourism	24	10
	F. Transport, communications and other basic facilities	25–27	10
	G. Banking	28	11
	H. Public works	29	11

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V.	Social conditions	30–36	11
	A. General	30–32	11
	B. Public health	33	12
	C. Social security and welfare	34	12
	D. Education	35	12
	E. Other developments	36	13
VI.	Participation in international organizations and arrangements	37	13
VII.	Consideration by the United Nations	38–52	13
	A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples	38–41	13
	B. Position of the Government of Argentina	42	16
	C. Position of the administering Power	43–46	16
	D. Contributions by other Member States	47	17
	E. Action by the General Assembly	48	18
	F. Consideration by other intergovernmental organizations and international forums	49–52	18

I. General

1. The Falkland Islands (Malvinas)[1] is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. The Territory comprises two large islands, known as East and West Falkland, as well as some 200 smaller islands, and has a total area of about 12,173 square kilometres (4,700 square miles). The Territory is situated in the South Atlantic, about 770 kilometres north-east of Cape Horn and about 480 kilometres east of the South American mainland. South Georgia, located about 1,300 kilometres south-east of the Falkland Islands (Malvinas) group, and the South Sandwich Islands, located about 750 kilometres east-south-east of South Georgia, are considered a separate Territory and are administered from the Falkland Islands (Malvinas); the Governor of the Falkland Islands (Malvinas) acts concurrently as Commissioner for South Georgia and the South Sandwich Islands. According to the 2001 census, the population of the Territory is 2,391 (not including an estimated 112 residents temporarily absent and 534 military personnel), up from 2,221 in 1996.

II. Constitutional and political developments

A. Constitution and Government

2. Detailed information on the Constitution and Government of the Falkland Islands (Malvinas) is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11).

3. On 22 November 2001 general elections were held for eight members of the Legislative Council, five from the Stanley constituency and three from Camp (the countryside outside of Stanley), for a four-year term. On the same day, in a non-binding referendum, the islanders voted against changing the two-constituency system under which the Councillors were elected to a single constituency system. A new Governor, Howard Pearce, took over from the outgoing Governor, Donald Lamont, in December 2002.[2] A by-election was held in November 2003 to elect one of the councillors for the Camp constituency.

B. Political developments in 2003

4. Details of the political developments that took place during January 2003 are contained in the 2003 working paper prepared by the Secretariat (see A/AC.109/2003/17, paras. 12-13).

5. On 10 June 2003, the Government of Argentina issued the following press communiqué:

> "On 10 June, the 'Day of Affirmation of Argentine Rights over the Malvinas, Islands and the Antarctic Sector', the Argentine Nation commemorates the creation of the Political and Military Command for the Malvinas Islands and adjacent islands as far as Cape Horn in the Atlantic Ocean. The Command was created in 1829 through a decree issued by Brigadier Martín Rodríguez, Acting Governor of the Buenos.

"Since its inception as an independent nation, the Argentine Republic has demonstrated, through different acts of Government, its firm political will to exercise effective sovereignty over the Southern territories and maritime areas that it inherited from Spain.

"Through this act the Government of Argentina reaffirmed its legitimate titles over the Islands and sought to ensure respect of the laws so as to protect the activities of the Argentine and non-Argentine population without discrimination that resided on the Islands. Thus, the institutional framework was established for the subsequent undertakings of the Governor of the Malvinas Islands, D. Luis Vernet.

"This effective exercise of sovereignty was interrupted on 3 January 1833, when British forces occupied the Malvinas Islands, expelling the Argentine population and authorities settled there and replacing them with others of British origin.

"The people and Government of Argentina never consented to that act of force and today, as in the past, they confirm their permanent and unwavering determination to regain the exercise of sovereignty over the Malvinas Islands, South Georgia and South Sandwich Islands and the surrounding maritime areas, through the peaceful path of diplomatic negotiations and in accordance with the many appeals of the international community.

"Argentina's claim has traditionally been supported by the countries of our region and by major international and regional organization, including the General Assembly of the United Nations and the General Assembly of the Organization of American States. These fora have repeatedly called on the Governments of the Argentine Republic and the United Kingdom to resume negotiations with a view to resolving the sovereignty dispute in a peaceful and conclusive manner.

"On this important date, the Argentine Government reiterates its unwavering sovereignty claim over the Malvinas Islands, South Georgia and South Sandwich Islands and the surrounding maritime areas. At the same time, it reaffirms its permanent disposition to resume negotiations with a view to settling as soon as possible and in a just and conclusive manner the still unresolved sovereignty dispute."

6. From 10 to 15 July 2003, President Néstor Kirchner of Argentina paid a visit to the United Kingdom. On that occasion, after an informal meeting with Prime Minister Tony Blair, he informed the press that "... during the conversation with the British Prime Minister, I reiterated the commitment of the Argentine people to the question of the sovereignty of the Malvinas Islands and that Argentina wishes urgently to resume negotiations over the disputed islands."

7. In a letter dated 20 October 2003, addressed to the Secretary-General of the United Nations, the Permanent Representative of Argentina referred to the White Paper on "Partnership for Progress and Prosperity: Britain and the Overseas Territories" (see A/AC.109/1999/1, annex, and Corr.1). In that letter, the Permanent Representative reiterated his Government's "rejection of this 'White Paper' insofar as it refers to the Malvinas, South Georgia and South Sandwich Islands" (see A/58/527).

8. On 30 September 2003, the Permanent Representative of the United Kingdom wrote to the President of the General Assembly of the United Nations in exercise of his right of reply to the remarks made by the President of Argentina in the general debate on 25 September 2003 (see A/58/408). In the annex to his letter, the Permanent Representative of the United Kingdom recalled that there was nothing in the 1999 joint statement that compromised the position of the United Kingdom in relation to its sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands. The United Kingdom had no doubts regarding its sovereignty over those territories and their surrounding maritime areas. He recalled that during their visit to New York on 16 June 2003, the elected representatives of the Falkland Islands (Malvinas) had asked the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to recognize that they, like any other people, were entitled to exercise the right to self-determination and had reiterated that the people of the Falkland Islands (Malvinas) did not wish for any change in the status of the Territory. The Permanent Representative of the United Kingdom had reiterated his Government's support of the right to self-determination, as set out in Article 1 of the Charter of the United Nations and paragraph 4 of the United Nations Millennium Declaration, and remained committed to the right of the people of the Falkland Islands (Malvinas) to determine their own future.

9. On 18 November 2003, the Permanent Representative of Argentina wrote to the President of the Assembly rejecting the reply of the United Kingdom. With respect to the reference by the United Kingdom to self-determination, Argentina reaffirmed the need to apply the principle of territorial integrity to the special and particular colonial situation of the question of the Falkland Islands (Malvinas) (see A/58/527). In that context, the Permanent Representative referred to the provisions of the relevant resolutions of the General Assembly and the Special Committee on Decolonization, which called on Argentina and the United Kingdom to resume bilateral negotiations with a view to finding, as promptly as possible, a just, peaceful and definitive solution to the sovereignty dispute, bearing in mind the interests of the population of the islands.

10. On 5 December 2003 the Government of Argentina issued a press release with regard to the admission by the United Kingdom that the task force sent to the South Atlantic during the 1982 conflict, included vessels with nuclear weapons and that accidents occurred while handling those weapons. According to the press release, the Government of Argentina:

> "Expressed its concern on several occasions in various international forums regarding the possibility, which has now been confirmed, that the United Kingdom had brought nuclear weapons into the South Atlantic. The Government of Argentina considers it most regrettable that the United Kingdom disregarded the objections made at that time by Argentina about the situation.
>
> "The episode, which has now been acknowledged by the United Kingdom Government, is of the utmost seriousness. The action in question could have had terrible consequences for the population, natural resources and environment of the region. It is therefore unacceptable to try to justify it on logistical grounds, as part of an operation to maintain the colonial situation in the South Atlantic.

"The Government of Argentina calls on the United Kingdom Government to supply detailed and complete information on the facts that have come to light, and demands that it should provide convincing assurances that there are no nuclear weapons, of any kind or under any circumstances in any part of the South Atlantic, including in sunken vessels and on the seabed ...

"The Government of Argentina, in accordance with its consistent policy against nuclear weapons, both in terms of their use and the threat of their use, intends to raise this matter before the relevant international bodies.

"The Government of Argentina rejected the United Kingdom's territorial expansion in relation to the Malvinas Islands, South Georgia, the South Sandwich Islands and the surrounding maritime areas when it signed and ratified Additional Protocols I and II to the Treaty of Tlatelolco. Similarly, Argentina rejects the distinction drawn by the United Kingdom between the Argentine mainland and the Malvinas Islands ..."

11. On 5 December 2003, the British Embassy in Buenos Aires issued the following press release:

"As categorically stated by ministers before Parliament in 1982, the use of nuclear weapons in the conflict was not considered at any point.

"During the cold war, British navy vessels were routinely equipped with nuclear depth charges to use against submarines. However, the United Kingdom always observed its international commitments, including those covered by the Treaty of Tlatelolco. We can confirm that no vessel equipped with nuclear weapons entered the territorial waters of Argentina or the Falkland Islands.

"Owing to the design of the weapons, not even a direct impact on one of the vessels that was carrying them would have caused a nuclear explosion. Furthermore, safety procedures would have prevented radioactive emissions from being produced. All weapons were accounted for and were in good condition when the fleet returned to the United Kingdom. No weapons were lost, and the British vessels that were sunk were not carrying nuclear weapons ..."

12. By a letter dated 5 January 2004, addressed to the Secretary-General, the Permanent Representative of Argentina transmitted a press release issued on 3 January 2004 from his Government on the occasion of the 171st anniversary of the illegal occupation of the Malvinas Islands by the United Kingdom of Great Britain and Northern Ireland (A/58/671 and annex).

13. By a letter dated 13 January 2004, addressed to the Secretary-General, the Permanent Representative of the United Kingdom responded to the letter from the Permanent Representative of Argentina referred to in paragraph 12 above. In its response, the United Kingdom rejected "as unfounded the claim by the Government of Argentina to sovereignty over those islands and the surrounding maritime areas and that the Falkland Islands are under illegal occupation by the United Kingdom" (see A/58/681).

14. In his New Year message, the British Prime Minister welcomed the commitment of the Falkland Islands councillors to the construction of the memorial for the Argentine war dead at Darwin. He expressed hope that the humanitarian

gesture would provide a focus for reconciliation both in 2004 and in the future. He reiterated that he supported the wish of the inhabitants of the Falkland Islands (Malvinas) to continue to determine their own future, and added that the United Kingdom continued to encourage the Argentine Government to engage in practical cooperation on issues of mutual interest. That could only benefit Falkland Islanders and their future prosperity and security.[3]

III. Mine clearance

15. Details on the situation regarding mine clearance are contained in the 2003 paper prepared by the Secretariat (A/AC.109/2003/17, paras. 14-15).

IV. Economic conditions

A. General

16. According to the administering Power, the pace of economic development has accelerated dramatically since 1982. In 1984, the Falkland Islands Development Corporation was formed to encourage the development of a private sector. This rapid growth resulted initially from the influx of British Government aid, but subsequently from the development of fisheries. The size of the fisheries' revenues and their subsequent investment have enabled improvements to be made in the infrastructure and the promotion of tourism and other enterprises, which will help to diversify the economy.

B. Public finance

17. The Territory's financial year runs from 1 July to 30 June. In 2002/2003, the revised estimate for total revenue was 48.7 million British pounds, of which more than half (£25.4 million) came from fisheries. Other sources of revenue were taxation (£5.2 million), investment income (£3 million) and those derived from public works (£4.3 million). During the same period, the revised estimate for total expenditure was £46.9 million.

18. The Legislative Council approved a bill implementing recommendations from a tax policy review. The new income tax rates, which came into effect on 1 January 2004, changed and simplified the system from three-tier to two-tier. The first £12,000 of chargeable income will be taxed at 20 per cent and the remainder at 25 per cent, while most of the existing income tax deductions are being removed. Significant changes were also made for corporate taxpayers, including: lowering the rates to bring them into line with those for income tax; abolition of the advance corporation tax; improvements for group relief; abolition of initial depreciation allowances; and carry back of losses.[4]

C. Agriculture, land tenure and livestock

19. Detailed information on agriculture, land tenure and livestock is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11). A new

abattoir opened in July 2001 and received European Union certification on 12 December 2002. The Falkland Islands Meat Marketing Board estimates that approximately 10,000 lambs will be processed in the abattoir in 2003 and a management programme is under way that aims to increase the number significantly over the next three to five years. The Falkland Islands (Malvinas) aim to be an important player in the premium organic lamb market by 2010.[5]

D. Fisheries

20. Loligo and Illex squid are the mainstay of the territorial fisheries and economy. In addition to the two squid species, a number of finfish are targeted, including blue whiting, hake and hoki. The Fisheries Department is responsible for administering the fishery. In late 2003, the Fisheries Committee met to consider the development of a new fisheries policy and the eligibility of those who could hold fishing rights under the new arrangement for the establishment of long-term rights in the various Falkland Islands (Malvinas) fisheries.[6]

21. The South Atlantic Fisheries Commission, which was established by Argentina and the United Kingdom through the joint statement of 28 November 1990, has met regularly and worked without interruption since then for the conservation of fisheries resources in that area.

22. On 3 and 4 July 2003, the South Atlantic Fisheries Commission held its 23rd meeting, in London. The British delegation was led by Alan Huckle, the head of the Overseas Territories Department of the Foreign and Commonwealth Office. The Argentine delegation was led by Santos Goñi, head of the Malvinas and South Atlantic Department of the Ministry of Foreign Affairs, International Trade and Worship. In a joint press statement issued at the end of the meeting, the Argentine and British delegations agreed that the formula on sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime areas, contained in paragraph 2 of the joint statement issued in Madrid on 19 October 1989, applied to the meeting and its consequences. The South Atlantic Fisheries Commission welcomed the report of the Scientific Subcommittee on its 21st meeting, held in London between 30 June and 2 July 2003. The Commission welcomed the continuing cooperation between the National Institute for Fisheries Research and Development and the Imperial College. Both delegations reaffirmed the importance they attached to ensuring the sustainability of fish stocks and reiterated the commitment of their Governments to the conservation of the fish and squid stocks of the South-West Atlantic. They recommended that both Governments continue scientific research in order to achieve a greater understanding of the most significant offshore species in the area. Both delegations reaffirmed their support for the Early Warning System and agreed that the exchange of real-time data on fishing activities remained central to the operation of the system. The Commission agreed to recommend to both Governments that every effort be made to maintain a level of 40,000 metric tons of Illex spawning stock biomass at the end of the fishing season in order to ensure stock sustainability. The Commission noted the concerns raised in the Scientific Subcommittee about the level of uncertainty associated with the estimation of recruitment and spawning stock biomass of Illex. It agreed to recommend to both Governments that a two-day workshop on Illex take place before the next meeting of the Subcommittee in order to reconcile any differences between the methodologies and data relating to the assessment of Illex

and that a joint survey to assess recruitment of the stock should take place in February 2004. The delegations welcomed the proposals made by the Subcommittee to improve the early warning system further by initiating data exchange relating to fishing on the high seas for Illex, both by their flag and licensed vessels, starting from the first calendar week of 2004. The Commission endorsed the recommendations made by the Subcommittee for further enhancement of the data exchange for Illex to include the exchange of archived information on statoliths in order to evaluate potential methods for stock identification. The Commission took note of the ongoing research on southern blue whiting, and the information gained from the two-vessel survey of the species. It agreed to recommend that a joint survey on the species take place during September and October 2003. The Commission further took note of the advice of the Subcommittee that, in order to achieve stability or recovery, the total catch would need to be maintained at 55,000 or 50,000 tons, respectively, on present estimates. The Commission also exchanged views on further issues relating to cooperation on fisheries conservation and concurred that the timely establishment of a multilateral agreement would provide the necessary long-term mechanism to ensure the sustainability of fish stocks in the high seas of the South-West Atlantic. Constructive views were exchanged on the general framework and principles that should be incorporated into a bilateral agreement in this respect. They referred to practical measures needed to prevent poaching, which undermines fish stock conservation in the South-West Atlantic, and they agreed to enhance coordinated efforts in this regard by improving the frequency and detail of information exchanged with respect to flag and licensed vessels. The Argentine delegation reiterated the concern of the Argentine Government about the situation created by the British decisions with respect to the area described in the annex to the Joint Statement of 28 November 1990 and to the area west of it. It expressed the hope of the Argentine Government that the matter would be resolved. The British delegation reiterated its position.

23. On 11 and 12 December 2003, the South Atlantic Fisheries Commission held its 24th meeting, in Buenos Aires. The Argentine delegation was led by Santos Goñi, head of the Malvinas and South Atlantic Department of the Ministry of Foreign Affairs. The British delegation was led by Mike Richardson, head of the Polar Regions Unit, Overseas Territories Department of the Foreign and Commonwealth Office. In a joint press statement issued at the end of the meeting, the Argentine and British delegations agreed that the formula on sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime areas, contained in paragraph 2 of the joint statement issued in Madrid on 19 October 1989, applied to the meeting and its consequences. Both delegations reaffirmed the importance that they attached to ensuring the sustainability of fish stocks and reiterated the commitment of both Governments to the conservation of the fish and squid stocks of the South-West Atlantic. They recommended to both Governments the continuation of scientific research in order to achieve a greater understanding of the most significant offshore species in the area. With respect to Illex squid, both delegations reaffirmed their support for the early warning system. They also reaffirmed that the exchange of real-time data on relevant fishing operations as referred to in the joint press statement from the 23rd South Atlantic Fisheries Commission is central to the operation of the system. The Commission agreed to recommend to both Governments that every effort be made to maintain the level of 40,000 tons of Illex spawning stock biomass at the end of the fishing season, in order to ensure stock sustainability. The Commission

recommended to both Governments that workshops on Illex and southern blue whiting should take place as soon as possible in 2004 and before the next meeting of the Scientific Subcommittee. The Argentine delegation presented a draft plan for the joint pre-recruit survey to assess recruitment of Illex stock that should take place in February 2004. The Commission noted the progress made with the ongoing research on southern blue whiting and the information gained from the joint scientific survey on the species. The two delegations exchanged views on further issues relating to cooperation on fisheries conservation and they concurred that the timely establishment of a multilateral agreement would provide the necessary long-term mechanism to ensure the sustainability of fish stocks in the high seas of the South-West Atlantic. They referred to practical measures needed to prevent poaching, which undermines fish stock conservation in the South-West Atlantic, and they agreed to enhance coordinated efforts aimed at achieving those objectives. Both delegations reiterated their positions as at the end of the 23rd meeting.

E. Tourism

24. There has been a significant expansion of the Falkland Islands (Malvinas) tourist industry in recent years. The United Kingdom is currently the principal market, but the Falkland Islands Tourism, a department of the Falkland Islands Development Corporation, has focused efforts on developing new contacts with tour operators in the United States and Europe. The Falkland Islands (Malvinas) aim to increase the number of visitors arriving via South America, using the weekly LanChile service from Chile. It was reported that more than 1,600 visitors travelled around the islands on land tours in 2003, an increase of 800 per cent in five years. This figure was boosted by the visits of 61 cruise ships, with nearly 28,000 passengers who made brief visits to the Territory.[7]

F. Transport, communications and other basic facilities

25. Detailed information on transport, communications and other basic facilities is contained in the 2001 working paper prepared by the Secretariat (A/AC.109/2001/11).

26. During the period under review, the airline LanChile continued to provide regular round trip service from Punta Arenas (Chile) to the Falkland Islands (Malvinas), including two monthly stop-overs in Rio Gallegos (Argentina), one in each direction, in accordance with the provisions of the Joint Statement of 14 July 1999, the Exchange of Notes annexed to it and Decree 1179/02, issued by the President of Argentina on 4 July 2002. In early 2003, as later reported in the media, the Falkland Islands Development Corporation started discussing with LanChile and other private interests the possibility of a mid-week flight from Chile.[8] There is no agreement on non-scheduled flights to the Falkland Islands (Malvinas) by airlines flying under third country flags. These kinds of flights have been authorized by Argentina on a case-by-case basis. Such authorizations ceased on 3 November 2003 although, in the framework of exchanges of views between Argentina and the United Kingdom on the subject of airlinks to the Falkland Islands (Malvinas), flights that were requested before that date were authorized by Argentina and continued until the end of 2003.

27. On 3 November 2003, the Argentine Government proposed to the United Kingdom that direct regular air services, operated by Argentine companies, be established between mainland Argentina and the Falkland Islands (Malvinas). The exchanges of views between the two Governments on this issue, and other initiatives, to develop airlinks between the Falkland Islands (Malvinas) and the continent took place from November to December 2003 and from February to March 2004.

G. Banking

28. Both British and local coinage is used, together with local currency notes. There is a parity between United Kingdom and Falkland Islands (Malvinas) currency. The Standard Chartered Bank of the United Kingdom opened a branch in Stanley in December 1983.

H. Public works

29. The Public Works Department of the territorial Government is responsible for road-building projects, municipal services, construction projects and supplying water and electricity to the residents of Stanley. Recent projects have included an extension of Stanley Infant/Junior School and the building of a new abattoir.

V. Social conditions

A. General

30. According to the administering Power, the Territory observes the principles contained in the Universal Declaration of Human Rights. The provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms has been extended to the Falkland Islands (Malvinas) by the administering Power. Further, the United Kingdom has extended the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights to the Territory and observes the regular reporting procedures under these instruments. The common law of England applies in the Falkland Islands (Malvinas) except insofar as it is inconsistent with any enactment of the law applying to the Falkland Islands (Malvinas). There is no discrimination on the basis of sex in the implementation of articles 2 and 3 of the International Covenant on Civil and Political Rights. The Convention on the Elimination of All Forms of Discrimination against Women has been applied by the United Kingdom in the Falkland Islands (Malvinas) with the agreement of the territorial Government.

31. According to the Government of Argentina, the said declarations by the United Kingdom regarding the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands were rejected by the Government of Argentina by its declarations of 3 October 1983 and 8 August 1986 on the International Covenant on Economic, Social and Cultural Rights, of 3 October 1983, 8 August 1986 and 5 October 2000 on the International Covenant on Civil and Political Rights, and of 4 April 1989 on the Convention on the Elimination of All Forms of Discrimination against Women.

32. A team commissioned by the Foreign and Commonwealth Office and the Department for International Development visited the Falklands Islands (Malvinas) in 2002 as part of a project on human rights in the United Kingdom Overseas Territories. The main recommendations of the report were published in 2003 and were discussed by the Executive Council. The members of the Council noted that the report was broadly encouraging and the most serious criticisms did not relate directly to the civilian community in the Falkland Islands (Malvinas).[9]

B. Public health

33. The general state of health in the Falkland Islands (Malvinas) is good. Medical and dental treatments and prescription drugs are free to all residents and to United Kingdom citizens. All medical services are based at the King Edward VII Memorial Hospital in Stanley which provides a full range of primary care services to the civilian population, military personnel stationed in Stanley and the foreign fishing fleets around the Islands. In addition, there is a visiting medical service to outlying farm settlements. The Hospital has facilities to deal with acute medical and surgical conditions. Cases requiring specialist attention are first stabilized and then evacuated to the United Kingdom or Chile, or in emergencies, to Montevideo, Uruguay. The estimated expenditure for health and social services in 2002/2003 was 5.5 million British pounds (up from £4.9 million in 2001/2002). In February 2003, the Legislative Council debated the issue of the lack of facilities for the handicapped in government buildings.[10]

C. Social security and welfare

34. The Falkland Islands Retirement Pensions Ordinance provides for mandatory fixed monthly contributions by all employers and by employees between the ages of 17 and 64. Implementation of the Falkland Islands Pension Scheme Ordinance 1997 commenced during 1998. This scheme provides a national defined contribution vehicle through which employers, self-employed individuals and other individuals within the Falkland Islands (Malvinas) can make contributions under employer-employee agreements or voluntarily during their working lives and receive a pension upon retirement. A system of social welfare grants and pensions is in operation to deal with cases of hardship and disability. The estimated social payments for 2002/03 are £34,050.

D. Education

35. Education in the Falkland Islands (Malvinas) is free and compulsory for all children between the ages of 5 and 16. The local Government provides staff, equipment and supplies for education, has a primary and a secondary school in Stanley and operates four small settlement schools on large farms. In the rural areas, younger children either attend the settlement schools or are visited by one of the six travelling teachers for two weeks out of every six. There are also radio and telephone lessons available. Students above the age of 16 who qualify in exams are funded for studies in the United Kingdom. In 2003, there were 386 schoolchildren being educated in the Falkland Islands (Malvinas), and 52 pupils were being

educated in the United Kingdom. Estimated illiteracy in the Islands of the total population aged 20 years and over was 0.5 per cent.

E. Other developments

36. During the period under review, there were further private contacts between the inhabitants of the Territory and mainland Argentina. A plastics artist from the Territory, James Peck, exhibited pictures with landscapes and birds of the Territory in an art gallery of Puerto Madryn (Argentina) on 14 June 2003.

VI. Participation in international organizations and arrangements

37. The Government of the Falkland Islands (Malvinas) participates in activities of the Commonwealth and is a member of the United Kingdom Overseas Territories Association. Representatives of this Government have participated, as members of the United Kingdom delegation, in discussions on matters affecting their interests, such as those leading to the 14 July 1999 joint statement.

VII. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

38. The Special Committee considered the question of the Falkland Islands (Malvinas) at its 8th meeting, on 16 June 2003. At that meeting, the Special Committee decided to accede to the request of Argentina, Brazil, the Dominican Republic, Paraguay, Peru and Uruguay to participate in the consideration of the item. At the same meeting, in accordance with a previous decision taken by the Special Committee at its 7th meeting, statements were made by Councillors Mike Summers and John Birmingham of the Legislative Council of the Falkland Islands (Malvinas). Alejandro Jacobo Betts and James Douglas Lewis also made statements (see A/AC.109/2002/SR.8).

39. At the same meeting, the representative of Chile, on behalf of Bolivia, Chile, Cuba and Venezuela introduced a draft resolution on the item (A/AC.109/2003/L.12), saying that the text reflected the main elements of the United Nations doctrine on the issue. The text emphasized the special colonial circumstances of the question of the Falkland Islands (Malvinas) and stated that the only way to settle the issue between the Governments of Argentina and the United Kingdom was through negotiations. The draft resolution also called on both parties to consolidate the current process of dialogue and cooperation through the resumption of negotiations in order to find a solution, in accordance with the resolutions of the United Nations.

40. At the same meeting, the Minister for Foreign Affairs, International Trade and Worship of the Argentine Republic, Rafael Bielsa, stated inter alia:

"... I am here today to refer to a colonial question of the greatest importance, which is still unresolved: that of the Malvinas Islands.

"The recovery of the full exercise of sovereignty, respecting the way of life of the inhabitants of the islands and in accordance with International Law, is a mandate whose fulfilment is set forth in the Argentine National Constitution. This unrelinquishable objective of the Argentine people is also a national policy continued by the new Government. In his inaugural address, President Néstor Kirchner stressed that he comes from the South of Argentina, bringing with him the Malvinas culture and that he will unwaveringly sustain that policy.

"My country's continued willingness to peacefully and definitively solve the sovereignty dispute as set forth by the resolutions of the General Assembly and of this Committee, has not been met by a corresponding demonstration of willingness from the other party to this controversy: the United Kingdom of Great Britain and Northern Ireland.

"It is unacceptable that the confrontation between an Argentine military Government and the United Kingdom be invoked by the latter in order to disregard the negotiation on sovereignty, which it had consented to and engaged in between 1966 and 1982, and thus disregarding the General Assembly's resolutions.

"Some of the understandings under the formula on sovereignty reached since then between my country and the United Kingdom regarding practical aspects related to the South Atlantic have proved useful.

"... These understandings are not and shall not be considered either as an expression or as an acceptance of a status quo. At the same time, I would like to stress that my country has protested and will continue to protest British unilateral acts in the disputed area.

"Nevertheless, my country is willing to undertake a renewed dialogue with the United Kingdom aimed at materialising other practical and innovative steps that would favour the solution of the controversy."...

41. Also at the 8th meeting of the Committee, the representative of Peru, speaking on behalf of the Rio Group, stated that the countries members of the Rio Group believed that the Governments of Argentina and the United Kingdom must resume negotiations in order to find, as soon as possible, a peaceful, just and lasting solution to the dispute concerning sovereignty over the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands, in accordance with resolutions of the General Assembly and the Special Committee. Speaking as the representative of Peru, he said that the solution to the dispute must be based on recognition of the legitimate rights of Argentina to sovereignty over the Territory, including the surrounding maritime areas. The representative of Paraguay, speaking of behalf of the States members of the Southern Common Market (MERCOSUR), and its associated States, Bolivia and Chile, stated that in the declaration on the Falkland Islands (Malvinas), adopted at the meeting convened in Potrero de Funes (Argentina), the Presidents of six countries had expressed their firm support of the legitimate rights of Argentina in the sovereignty dispute over the Falkland Islands (Malvinas). The representative of Brazil expressed satisfaction that, in recent years, Argentina and the United Kingdom had reached a number of temporary

understandings on various issues, including fisheries and maritime and air communications. He recalled that, at its thirty-third session, the General Assembly of the Organization of American States had adopted the declaration on the question of the Falkland Islands (Malvinas) in which it had reaffirmed the need for Argentina and the United Kingdom to begin, as soon as possible, negotiations in order to find a peaceful solution to the protracted sovereignty dispute. The delegation of China expressed hope that the Governments of Argentina and the United Kingdom would continue constructive dialogue in the interests of achieving a peaceful and just solution to the problem. The representative of Venezuela stated that his delegation had steadfastly supported Argentina's rights in the dispute concerning sovereignty over the Falkland Islands (Malvinas), both within the United Nations and in other international forums. The representative of the Dominican Republic, speaking as Acting Secretary of the Ibero-American Summit, said that his delegation supported a just and lasting settlement to the dispute and urged the parties to continue the peace talks, which could lead to a definitive, appropriate and realistic solution that reflected the legitimate aspirations referred to in the United Nations resolutions on the issue. The representative of Uruguay stated that the right to self-determination was not boundless and that it must be exercised on the basis of respect for the territorial integrity of States. The representative of Indonesia noted with satisfaction that the parties had expressed a willingness to resume negotiations and expressed the hope that the Committee would adopt the draft resolution before it by consensus. The representative of Cuba expressed support for the legitimate right of Argentina in the sovereignty dispute over the Falkland Islands (Malvinas). The representative of Côte d'Ivoire considered that the Governments of Argentina and the United Kingdom must examine all aspects of the future of the Falkland Islands (Malvinas) as it was necessary to find a definitive solution to the problem. The representative of the Syrian Arab Republic said that, with the continuation of dialogue and meetings between Argentina and the United Kingdom, it would be possible to achieve a solution acceptable to both sides. The representative of Tunisia called for the adoption of the draft resolution by consensus. The representative of the Russian Federation said that his delegation maintained that there was a need to find a mutually acceptable solution to the problem through bilateral negotiations between Argentina and the United Kingdom, taking into account the relevant decisions of the General Assembly. The representative of Bolivia stated that Bolivia supported Argentina's position in the sovereignty dispute over the Falkland Islands (Malvinas) and called on Argentina and the United Kingdom to begin negotiations as soon as possible in order to find a solution. The representative of the Congo expressed his delegation's conviction that frank and open dialogue was the only way to achieve a peaceful solution to the sovereignty dispute. The representative of Ethiopia welcomed the statement made by Argentina and called for a peaceful solution to the question of the Falkland Islands (Malvinas) through sustained and consistent efforts by the parties, taking into account the wishes and interests of the inhabitants. The representative of the United Republic of Tanzania called on all parties to resume negotiations in order to settle the question before the end of the Second International Decade for the Eradication of Colonialism. The Special Committee adopted draft resolution A/AC.109/2003/L.12 without a vote. Speaking after the adoption of the resolution, the representative of Antigua and Barbuda said that the draft resolution did not refer to the principle of self-determination and there had been no mention of the three options in the course of the discussion. He noted with satisfaction the contacts between Argentina and the United Kingdom, but noted that the Committee

should differentiate between self-determination and sovereignty since the Committee had no mandate to consider sovereignty issues. He added that if examining sovereignty issues somehow eased the pressure on the States concerned, the Committee should continue to do so, but not under the guise of self-determination. The representative of Grenada said that the crux of the problem was the issue of sovereignty. The sides ought to focus on those issues that united them — fishing rights, development of communication systems and tourism — and leave the "impossible" for later. The representative of Papua New Guinea said that while his delegation had joined the consensus resolution, it had the same questions as the representatives of Antigua and Barbuda and Grenada regarding the Committee's mandate.

B. Position of the Government of Argentina

42. On 22 September 2003, during the general debate of the fifty-eighth session of the General Assembly, the President of Argentina, Néstor Carlos Kirchner, stated the following:

> "We strongly advocate a peaceful settlement of international disputes, particularly in a matter as dear to our feelings and interests as the sovereignty dispute with regard to the Malvinas, South Georgia and South Sandwich Islands and surrounding maritime areas.
>
> "We value the role of the United Nations Special Committee on Decolonization and express our fullest willingness to negotiate in order to conclusively settle this longstanding dispute. We urge the United Kingdom to agree to resume bilateral negotiations to resolve this major issue."

C. Position of the administering Power

43. In his statement at the 2nd meeting of the Fourth Committee of the General Assembly, on 6 October 2003 (see A/C.4/58/SR.2), the representative of the United Kingdom said that his Government welcomed the opportunity, as an administering Power, to bring the Committee's attention to a number of significant developments that had taken place during the year. Following the adoption in 2002 of the British Overseas Territories Act, which granted all citizens of those Territories full British citizenship, the right of abode in the United Kingdom and freedom of movement within the European Union, over 14,000 passports had been issued by August 2003. As for environmental management in the Overseas Territories, the representative said that his Government was working closely with the Territories to fulfil the commitments it had entered into under multilateral agreements and to support the efforts of the Territories themselves to protect and improve their environment.

44. With respect to the constitutional reviews, discussions were under way in the Falkland Islands (Malvinas) and other territories. In terms of the Committee's specific interests, two years into the Second International Decade for the Eradication of Colonialism, perhaps the most significant development had been the decolonization seminar that had been held in Anguilla from 20 to 22 May 2003 since it was the first time that the seminar had been held in a British Non-Self-Governing Territory. The Representative of the United Kingdom said that the seminar had shown the extent to which many of the British Overseas Territories had dynamic and

advanced economies, which already benefited from a high degree of self-government.

45. The representative said that the United Kingdom had the impression that there was no strong desire in its Territories to choose the path of independence, even though his Government had made it clear that it would give encouragement where independence was an option. The key, therefore, as long as the Territories chose to retain their link with the United Kingdom, would be to try to reconcile their desire for greater autonomy and self-government with the United Kingdom's responsibility to ensure good governance, to protect the impartiality of the public service and the independence of the judiciary, and to ensure compliance with relevant international obligations.

46. At the meeting, the representative of the United Kingdom spoke in exercise of the right of reply in response to statements by the representatives of Peru, Uruguay and Venezuela concerning the sovereignty of the Falkland Islands (Malvinas). He said that his country's position was well known and that the Permanent Representative of the United Kingdom had recently stated it in detail, in writing, in the exercise of his right of reply to the statement made by the President of Argentina to the General Assembly on 25 September 2003.

D. Contributions by other Member States

47. On 6 October 2003, during the 2nd meeting of the Fourth Committee of the General Assembly, the representative of Peru stated that the States members of the Rio Group considered it necessary that the Governments of Argentina and the United Kingdom should, as soon as possible, resume negotiations aimed at finding a just, peaceful and lasting solution to the dispute over sovereignty of the Falkland Islands (Malvinas), South Georgia and the South Sandwich Islands and the surrounding maritime space, in conformity with pertinent resolutions and declarations of the General Assembly, the Special Committee on Decolonization and the Organization of American States. The representative of Cuba reaffirmed his delegation's unconditional support of the legitimacy of Argentina's claim to sovereignty over the Falklands Islands (Malvinas) and urged the Governments of Argentina and the United Kingdom to pursue negotiations with a view to achieving a just, peaceful and honourable settlement of their dispute. The representative of Uruguay, speaking on behalf of the States members of MERCOSUR and its associated States (Bolivia and Chile) said that the States in question wished to associate themselves with the statement made on behalf of the Rio Group. The representative referred in particular to a special colonial situation which was still unresolved, namely, that of the Falkland Islands (Malvinas), South Georgia, and the South Sandwich Islands, as well as the surrounding maritime zone, which had long been the subject of a sovereignty dispute between Argentina and the United Kingdom. The General Assembly, the Special Committee and the Organization of American States had adopted numerous resolutions on the subject. MERCOSUR and its associated States were directly concerned about the problem, which not only prolonged an abnormal and unjust situation for Argentina, but also hampered their plan to transform the South Atlantic region into a genuine zone of peace. They would continue to be fully supportive of efforts to bring a definitive end to that anachronistic colonial situation and reaffirmed the terms of the statements they had made regarding the Falkland Islands (Malvinas), which had been adopted at the

meetings of the Presidents of the MERCOSUR countries and its associated States (Bolivia and Chile), in 1996 and 1999. The representative of Venezuela said that his delegation wished to reaffirm its support for Argentina in its struggle to assert its sovereignty over the Falkland Islands (Malvinas). It once again urged the parties concerned to resume negotiations, believing that dialogue at the highest level and increasingly close cooperation between the Governments of Argentina and the United Kingdom offered the necessary conditions for the opening of talks.

E. Action by the General Assembly

48. At its 56th plenary meeting, on 5 November 2003, the General Assembly decided to defer consideration of the item entitled "Question of the Falkland Islands (Malvinas)" and to include it in the provisional agenda of its fifty-ninth session (decision 58/511).

F. Consideration by other intergovernmental organizations and international forums

49. On 10 June 2003, the General Assembly of the Organization of American States (OAS), meeting in Barbados, adopted a Declaration on the Question of the Malvinas Islands, by which it considered that the matter was of enduring hemispheric concern; noted with satisfaction that the Governments of Argentina and the United Kingdom continued to reinforce political, trade and cultural ties and were also engaging in close cooperation both bilaterally and in international forums and, having heard the presentation by the head of the delegation of Argentina, welcomed the reaffirmation of the will of the Government of Argentina to continue exploring all possible avenues for peaceful settlement of the controversy and its constructive approach towards the inhabitants of the Falkland Islands (Malvinas); reaffirmed the need for the Governments of Argentina and the United Kingdom to begin, as soon as possible, negotiations on the sovereignty dispute, in order to find a peaceful solution to the protracted controversy; and decided to continue to examine the question of the Falkland Islands (Malvinas) at its subsequent sessions until a definitive settlement was reached thereon.

50. At the same meeting of OAS, the Secretary of State of Foreign Affairs of Argentina stated, inter alia, that:

> "The question of the Malvinas Islands, which the Organization has declared to be of permanent interest to the hemisphere, needs to be dealt with and discussed until a definitive solution is achieved. The Governments of the Argentine Republic and the United Kingdom must resume negotiations on sovereignty with a view to achieving a peaceful settlement of the dispute.
>
> "The Argentine Government reiterates its complete readiness to resume negotiations, and urges the United Kingdom to heed the repeated calls from the international and regional communities to seek a negotiated settlement of the dispute.
>
> "The Argentine Government's commitment to achieving the full exercise of Argentine sovereignty over the Malvinas Islands, South Georgia, the South Sandwich Islands and the surrounding maritime area is permanent and

irrevocable. The amount of time that has elapsed since the foreign occupation of these territories began and the continuing British military presence in the region mean that it is all the more necessary to achieve a definitive negotiated settlement of the dispute."

51. The position of the United Kingdom with regard to the consideration of the question of the Falkland Islands (Malvinas) by the OAS was stated in a letter dated 12 February 2004 from the Permanent Observer Mission of the United Kingdom to OAS addressed to the Chairman of the Permanent Council of OAS. Referring to the press release issued by Argentina on the question of the Falkland Islands (Malvinas), following the OAS meeting, the Permanent Observer stated that:

> "The United Kingdom's position on this issue is well known and was last set out in detail by the United Kingdom's Permanent Representative to the United Nations, Sir Emyr Jones Parry, in a written right of reply dated 30 September 2003 to the statement by President Néstor Carlos Kirchner of the Argentine Republic in the United Nations General Assembly on 25 September 2003. The United Kingdom has no doubt about its sovereignty over the Falkland Islands, South Georgia and the South Sandwich Islands and their surrounding maritime areas."

52. At the thirteenth Ibero-American Summit, held in Santa Cruz de la Sierra, Bolivia, from 14 to 15 November 2003, the Heads of State and Government of the Ibero-American countries adopted the following Declaration on the Falkland Islands (Malvinas):

> "The Heads of State and Government of the Ibero-American countries, meeting in Santa Cruz de la Sierra, Bolivia, on the occasion of the XIII Ibero-American Summit, reaffirm the need for the Governments of the Argentine Republic and of the United Kingdom of Great Britain and Northern Ireland to resume, as soon as possible, the negotiations aimed at finding an early solution to the sovereignty dispute relating to the question of the Malvinas Islands, in accordance with the resolutions of the United Nations and the Organization of American States and the provisions and objectives of the Charter of the United Nations, including the principle of territorial integrity."

Notes

[1] The information contained in the present paper has been derived from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73 *e* of the Charter of the United Nations on 12 January 2004, as well as from Official documents of the Government of Argentina.

[2] *Penguin News*, 13 December 2002.

[3] Ibid., 9 January 2004.

[4] Ibid., 24 December 2003.

[5] Falkland Island Government Press Release, 7 January 2003.

[6] *Penguin News*, 24 October and 7 November 2003.

[7] Ibid., 23 May 2004.

[8] Ibid., 21 February 2004, 25 April 2003.

[9] Ibid., 7 November 2003.

[10] Ibid., 7 February 2003.